

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2077

To provide for waivers of the requirements of the Davis-Bacon Act with respect to certain Federal programs as such requirements relate to volunteers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 4 (legislative day, MAY 2), 1994

Mr. HATFIELD introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To provide for waivers of the requirements of the Davis-Bacon Act with respect to certain Federal programs as such requirements relate to volunteers, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Community Improve-  
5       ment Volunteer Act of 1994”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

1           (1) the ethic of civic responsibility, the spirit of  
2           community and the belief in volunteerism have all  
3           been fundamental principles guiding this country's  
4           evolution;

5           (2) Americans persist in their desire to affirm  
6           their sense of humanity, community, civic respon-  
7           sibility and shared values;

8           (3) volunteerism plays a vital role in helping the  
9           American people meet these mores;

10          (4) throughout the United States, there are  
11          pressing unmet public needs that will benefit and  
12          serve the local community or disadvantaged groups  
13          within the community (such as food banks, homeless  
14          shelters, parks, day care centers, youth centers, drug  
15          and alcohol abuse rehabilitation centers, libraries,  
16          and similar entities);

17          (5) expanding opportunities for volunteerism  
18          can assist a community in meeting many of these  
19          unmet public needs resulting in tangible benefits to  
20          society at little or no cost to the public;

21          (6) many Federal laws that authorize financial  
22          assistance for the construction of public buildings  
23          and public works require the application of the pre-  
24          vailing wage-setting provisions of the Act of March  
25          3, 1931 (commonly known as the "Davis-Bacon

1 Act'') (40 U.S.C. 276a et seq.) which sets minimum  
2 wages and fringe benefits which must be paid to var-  
3 ious classes of laborers and mechanics who are em-  
4 ployed on such projects;

5 (7) these prevailing wage-setting provisions of  
6 the Davis-Bacon Act protect the labor standards of  
7 working men and women in the locality where the  
8 federally-assisted project is to be constructed, sig-  
9 nificantly contribute to the achievement of a decent  
10 standard of living for local area working families,  
11 and contribute to safeguarding and providing em-  
12 ployment opportunities for women and minorities in  
13 the construction industry;

14 (8) the prevailing wage-setting provisions of the  
15 Davis-Bacon Act create incentives for contractors  
16 and subcontractors seeking federally-assisted and in-  
17 sured contracts and subcontracts to establish and  
18 support apprenticeship programs which provide op-  
19 portunities for women and minorities to receive  
20 training that enables them to become fully qualified  
21 laborers and mechanics in the construction industry;  
22 and

23 (9) in order to achieve these objectives, the pre-  
24 vailing wage-setting provisions of the Davis-Bacon  
25 Act have been uniformly applied to all laborers and

1 mechanics who performed work on federally-assisted  
2 public building and public works projects regardless  
3 of their status as volunteers, unless an express ex-  
4 ception is specifically provided for in a particular  
5 Federal law under which the Federal funding is  
6 authorized.

7 **SEC. 3. PURPOSE.**

8 It is the purpose of this Act to promote and provide  
9 more opportunities for people who wish to volunteer their  
10 services in the construction, repair or alteration, including  
11 painting and decorating, of public buildings and public  
12 works funded, in whole or in part, with Federal financial  
13 assistance authorized under certain Federal programs that  
14 might not otherwise be possible without the use of volun-  
15 teers, by waiving the application of the otherwise applica-  
16 ble prevailing wage-setting provisions of the Act of March  
17 3, 1931 (commonly known as the “Davis-Bacon Act”) (40  
18 U.S.C. 276a et seq.) to such volunteers.

19 **SEC. 4. WAIVER.**

20 (a) IN GENERAL.—The requirement that certain la-  
21 borers and mechanics be paid in accordance with the  
22 wage-setting provisions of the Act of March 3, 1931 (com-  
23 monly known as the “Davis-Bacon Act”) (40 U.S.C. 276a  
24 et seq.) as set forth in any of the Acts or provisions de-  
25 scribed in subsection (d), and the provisions relating to

1 wages, in any federally assisted or insured contract or sub-  
2 contract for construction, shall not apply to any individ-  
3 ual—

4 (1) who volunteers—

5 (A) to perform a service for a public or  
6 private entity for civic, charitable, or humani-  
7 tarian reasons, without promise, expectation or  
8 receipt of compensation for services rendered  
9 other than expenses, reasonable benefits, or a  
10 nominal fee (as defined in subsection (b)), but  
11 solely for the personal purpose or pleasure of  
12 the individual; and

13 (B) to provide such services freely and  
14 without pressure or coercion, direct or implied,  
15 from an employer;

16 (2) whose contribution of service is not for the  
17 benefit of any contractor otherwise performing or  
18 seeking to perform work on the same project; and

19 (3) who is not otherwise employed at any time  
20 under the federally assisted or insured contract or  
21 subcontract involved for construction with respect to  
22 the project for which the individual is volunteering.

23 (b) EXPENSES.—Payments of expenses, reasonable  
24 benefits, or a nominal fee may be provided to volunteers  
25 described in subsection (a) if the Secretary of Labor deter-

1 mines, after an examination of the total amount of pay-  
2 ments made (expenses, benefits, fees) in the context of the  
3 economic realities of the specific federally assisted or in-  
4 sured project, that such payments are appropriate. Sub-  
5 ject to such a determination—

6           (1) a payment for an expense may be received  
7       by a volunteer for items such as uniform allowances,  
8       protective gear and clothing, reimbursement for ap-  
9       proximate out-of-pocket expenses, or for the cost or  
10      expense of meals and transportation;

11          (2) a reasonable benefit may include the inclu-  
12      sion of a volunteer in a group insurance plan (such  
13      as a liability, health, life, disability, or worker's com-  
14      pensation plan) or pension plan or the awarding of  
15      a length of service award; and

16          (3) a nominal fee may not be used as a sub-  
17      stitute for compensation and must not be tied to  
18      productivity.

19 The decision as to what constitutes a nominal fee for pur-  
20 poses of paragraph (3) shall be made on a case-by-case  
21 basis and in the context of the economic realities of the  
22 situation involved.

23       (c) ECONOMIC REALITY.—For purposes of subsection  
24 (b), in determining whether an expense, benefit or fee de-  
25 scribed in such subsection may be paid to volunteers in

1 the context of the economic realities of the particular situ-  
2 ation, the Secretary of Labor shall not approve any such  
3 expense, benefit or fee which has the effect of undermining  
4 labor standards by creating downward pressure on prevail-  
5 ing wages in the local construction industry.

6 (d) CONTRACTS EXEMPTED.—For purposes of sub-  
7 section (a), the Acts or provisions described in this sub-  
8 section are the following:

9 (1) The Library Services and Construction Act.

10 (2) The Indian Self-Determination and Edu-  
11 cation Assistance Act.

12 (3) Section 329 of the Public Health Service  
13 Act (42 U.S.C. 254b).

14 (4) Section 330 of the Public Health Service  
15 Act (42 U.S.C. 254c).

16 **SEC. 5. REPORT.**

17 Not later than December 31, 1997, the Secretary of  
18 Labor shall prepare and submit to the appropriate com-  
19 mittees of Congress a report that—

20 (1) identifies and assesses, to the maximum ex-  
21 tent practicable—

22 (A) the projects for which volunteers were  
23 permitted to work under this Act; and

1           (B) the number of volunteers permitted to  
2           work because of the compliance of entities with  
3           the provisions of this Act; and  
4           (2) contains recommendations with respect to  
5           other Davis-Bacon-related Acts that could be ad-  
6           dressed to permit volunteer work.

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